

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re *Ex Parte* Application of Alesayi Beverage  
Company, Ltd., pursuant to 28 U.S.C. § 1782 to  
Conduct Discovery for Use in Foreign  
Proceedings,

Petitioner.

Misc. Case No. M-\_\_\_\_\_

**EX PARTE APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782  
TO CONDUCT DISCOVERY FOR USE IN FOREIGN PROCEEDINGS**

Petitioner, Alesayi Beverage Company, Ltd. (“Alesayi”), respectfully asks this Court to grant the Order Attached as “**Exhibit A**” to this Application, which gives Petitioner leave, pursuant to 28 U.S.C. § 1782 and Rules 26 and 45 of the Federal Rules of Civil Procedure, to serve Bank of America N.A. and JPMorgan Chase Bank N.A (the “Subpoenaed Entities”) the subpoenas attached as “**Exhibit B**” to this Application, and in support thereof states as follows.

The requested relief is for the purposes of obtaining necessary discovery in aid of a contemplated foreign proceeding. Petitioner, a Saudi Arabian beverage company, was defrauded by an entity or individual posing as one of its vendors, the Link-19 Company (“Link-19”). Petitioner has been doing business with Link-19 for more than three years. Petitioner purchases concentrates for its beverages from Link-19 and after receiving the invoice from Link-19, Petitioner makes a payment to Link-19 using the wire instructions on the invoice. From September through December 2018, Alesayi received a series of invoices from Link-19. When Alesayi was preparing to make a payment on those invoices, it received replacement invoices purportedly from Link-19 with updated wire instructions. Unbeknownst to Alesayi, these invoices originated from the domain name “Links19.com” (the “Scammer”) not “Link19.com,” the domain name associated with the legitimate Link-19. On February 28, 2019, Alesayi paid those invoices and directed payment of €1,062,957.80 to JPMorgan Chase pursuant to the wire

instructions purportedly from Link-19. On March 17, 2019, as Alsayi was preparing to make a payment on the next series of invoices, the Scammer, not Link19.com, sent Alesayi an email providing Alesayi with updated wire instructions. On March 19, 2019, Alesayi paid a series of invoices and directed payment of €2,575,195.13 to Bank of America pursuant to the wire instructions purportedly from Link-19. Alesayi, following those same wire instructions made a payment of €2,472,500 on March 26, 2019 to Bank of America, but was able to stop that payment once it learned it had been defrauded.

The Subpoenaed Entities are the entities to be subpoenaed for bank records and other documents, as set forth in more detail below and in the accompanying Declaration of Saddam Alhumaikani and Memorandum of Law. Petitioner intends to use the information sought from the Subpoenaed Entities to trace the stolen assets and to inform and pursue its contemplated foreign proceedings to recover those assets.

Specifically, Petitioner seeks to obtain records from the Subpoenaed Entities that identify the holder of the accounts identified by the accountant Petitioner hired upon discovery of the fraud. Petitioner seeks to obtain records of transfers of its assets into accounts held at the Subpoenaed Entities and the records of further transfers of those assets domestically or abroad.

Based upon the Declaration of Saddam Alhumaikani and the accompanying Memorandum of Law to this Application, the Court should grant this Application *ex parte*.

#### **A. The Documents Sought**

Petitioner seeks bank records and documents from the Subpoenaed Entities related to transfers of Petitioner's assets, which the Petitioner believes were fraudulently obtained by the individual or entity using the domain name "Links19.com". These transactions include transfers of Petitioner's assets to: (i) JPMorgan Chase Bank N.A. and (ii) Bank of America N.A.

**B. Petitioner's Application Should Be Granted**

Petitioner meets all the statutory criteria for the issuance of an order allowing the requested discovery under 28 U.S.C. § 1782. The Subpoenaed Entities are all located in this District. The Petitioner seeks to use the documents it requests from the Subpoenaed Entities in a contemplated foreign proceeding. The documents sought from the Subpoenaed Entities are necessary to identify the perpetrator of the fraud and the location of Petitioner's assets, so that the Petitioner may initiate a foreign proceeding to recover its assets. Moreover, as set forth in its Memorandum of Law filed concurrently herewith, all the discretionary factors that this Court may consider likewise favor granting this *ex parte* application. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004) (describing discretionary factors).

Accordingly, Petitioner respectfully requests that the Court (a) grant the Application for Order to Conduct Discovery in a Foreign Proceeding *Ex Parte*; (b) enter the Proposed Order attached to this Application as Exhibit A; (c) grant Petitioner leave, pursuant to 28 U.S.C. § 1782, to serve the subpoenas attached to this Application as Exhibit B; and (d) grant any and all other further relief to Petitioner as deemed just and proper.

Respectfully submitted this 25th day of March, 2021.

**BAKER & HOSTETLER LLP**

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